

# House File 2688 - Reprinted

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2652)  
(SUCCESSOR TO HSB 679)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act providing for efforts to mitigate odor emitted from a  
2 livestock operation including by providing for basic and  
3 applied research and evaluations, providing for  
4 implementation, and including applicability and effective date  
5 provisions.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
7 HF 2688  
8 da/jg/25

PAG LIN

1 1 DIVISION V  
1 2 ODOR MITIGATION FOR LIVESTOCK OPERATIONS  
1 3 Section 1. NEW SECTION. 266.40 DEFINITIONS.  
1 4 For purposes of this division, the following definitions  
1 5 apply:  
1 6 1. "Livestock" means beef cattle, dairy cattle, swine,  
1 7 chickens, or turkeys.  
1 8 2. "Livestock operation" means any area in which livestock  
1 9 are kept in a confined space, including a confinement feeding  
1 10 operation or open feedlot.  
1 11 3. "Livestock producer" means the titleholder of livestock  
1 12 or a livestock operation.  
1 13 4. "University" means Iowa state university of science and  
1 14 technology.  
1 15 Sec. 2. NEW SECTION. 266.41 ESTABLISHMENT.  
1 16 Iowa state university of science and technology shall  
1 17 consult with the department of agriculture and land  
1 18 stewardship and the department of natural resources to  
1 19 establish and administer livestock odor mitigation efforts to  
1 20 reduce the impacts of odor emitted from livestock operations  
1 21 involving swine, beef or dairy cattle, chickens, or turkeys as  
1 22 provided in this division.  
1 23 Sec. 3. NEW SECTION. 266.42 PURPOSES.  
1 24 The purposes of this division shall be to further livestock  
1 25 odor mitigation efforts as follows:  
1 26 1. Further a livestock odor mitigation research effort in  
1 27 order to accelerate the adoption of affordable and effective  
1 28 odor mitigation technologies and strategies by livestock  
1 29 producers, expand the number of affordable and effective odor  
1 30 mitigation technologies and strategies available to livestock  
1 31 producers, and provide research-grounded information regarding  
1 32 odor mitigation technologies and strategies that are  
1 33 ineffective or cost-prohibitive.  
1 34 2. Develop a livestock odor mitigation evaluation effort  
1 35 as provided in section 266.48, which shall be a multilevel  
2 1 process to determine the potential odor exposure to persons  
2 2 who would neighbor a new livestock operation as proposed to be  
2 3 constructed.  
2 4 Sec. 4. NEW SECTION. 266.43 DEVELOP AND ADVANCE  
2 5 TECHNOLOGIES AND STRATEGIES == APPLIED ON=SITE RESEARCH  
2 6 PROJECTS.  
2 7 Iowa state university of science and technology shall  
2 8 conduct applied on-site research projects to address whether  
2 9 odor mitigation technologies or strategies can be successfully  
2 10 implemented across many livestock operations, locations, and  
2 11 situations, and to analyze the costs of their successful  
2 12 implementation and maintenance to accomplish the purposes  
2 13 provided in section 266.42.  
2 14 1. The projects shall be conducted at livestock operations

2 15 on a statewide basis and under different circumstances.

2 16 2. The university shall evaluate technologies or  
2 17 strategies that have a firm foundation in basic and applied  
2 18 research but which may further benefit from statewide on-site  
2 19 application. The technologies and strategies may include but  
2 20 are not limited to the following:

2 21 a. The installation, maintenance, and use of odor  
2 22 mitigating devices, techniques, or strategies.

2 23 b. The use of a livestock odor mitigation evaluation  
2 24 effort as provided in section 266.48.

2 25 c. The manipulation of livestock diet.

2 26 3. A livestock producer who is classified as a habitual  
2 27 violator pursuant to section 459.604 or a chronic violator  
2 28 pursuant to section 657.11 shall not participate in an applied  
2 29 on-site research project under this section unless the  
2 30 livestock producer contributes one hundred percent of the  
2 31 total costs of conducting the project.

2 32 Sec. 5. NEW SECTION. 266.44 DEVELOP AND ADVANCE  
2 33 TECHNOLOGIES AND STRATEGIES == BASIC AND APPLIED RESEARCH  
2 34 PROJECTS.

2 35 Iowa state university of science and technology shall  
3 1 conduct basic or applied research projects to develop or  
3 2 advance technologies or strategies to accomplish the purposes  
3 3 provided in section 266.42.

3 4 1. The university shall evaluate technologies or  
3 5 strategies that have not been subject to comprehensive  
3 6 scientific scrutiny but which demonstrate promise to  
3 7 accomplish the purposes provided in section 266.42. The  
3 8 technologies and strategies may include but are not limited to  
3 9 the following:

3 10 a. The adaption and use of modeling to locate livestock  
3 11 operations associated with keeping livestock in addition to  
3 12 swine, and to locate livestock operations utilizing odor  
3 13 mitigation devices, techniques, or strategies.

3 14 b. The installation, maintenance, and use of odor  
3 15 mitigating devices, techniques, or strategies.

3 16 c. The use of topical treatments applied to manure  
3 17 originating with livestock operations keeping chickens and  
3 18 turkeys.

3 19 2. Nothing in this section restricts the university from  
3 20 conducting its evaluation at livestock operations, including  
3 21 as provided in section 266.43. A livestock producer who is  
3 22 classified as a habitual violator pursuant to section 459.604  
3 23 or a chronic violator pursuant to section 657.11 shall not  
3 24 participate in a basic or applied research project under this  
3 25 section unless the livestock producer contributes one hundred  
3 26 percent of the total costs of conducting the project.

3 27 Sec. 6. NEW SECTION. 266.45 EMERGING TECHNOLOGIES AND  
3 28 STRATEGIES == BASIC RESEARCH PROJECTS.

3 29 Iowa state university of science and technology shall  
3 30 conduct basic research projects to investigate emerging  
3 31 technologies or strategies that may accomplish the purposes  
3 32 provided in section 266.42.

3 33 1. The university shall evaluate technologies or  
3 34 strategies that demonstrate promise for future development but  
3 35 which may require a long-term research commitment.

4 1 2. Nothing in this section restricts the university from  
4 2 conducting its evaluation at livestock operations, including  
4 3 as provided in section 266.43. A livestock producer who is  
4 4 classified as a habitual violator pursuant to section 459.604  
4 5 or a chronic violator pursuant to section 657.11 shall not  
4 6 participate in a basic research project under this section  
4 7 unless the livestock producer contributes one hundred percent  
4 8 of the total costs of conducting the project.

4 9 Sec. 7. NEW SECTION. 266.46 INFORMATION REPORTING.

4 10 In accordance with section 266.42, Iowa state university of  
4 11 science and technology is the custodian of all information  
4 12 including but not limited to reports and records obtained,  
4 13 submitted, and maintained in connection with the research  
4 14 projects conducted on the site of a livestock operation as  
4 15 provided in this division. The information shall be kept  
4 16 confidential by all persons who are in possession of  
4 17 information obtained under this division, including but not  
4 18 limited to the university and its agents and employees, except  
4 19 as provided in section 266.47. For purposes of this division,  
4 20 such information is not subject to chapter 22 and shall not be  
4 21 made public upon subpoena, search warrant, discovery  
4 22 proceedings, or by any other means. A person shall not be  
4 23 compelled to disclose the name or address of a livestock  
4 24 producer except upon written waiver by the livestock producer  
4 25 participating in the research project.

4 26 Sec. 8. NEW SECTION. 266.47 RESEARCH RESULTS == INTERIM  
4 27 AND FINAL REPORTS.

4 28 Iowa state university of science and technology shall  
4 29 prepare and submit reports as follows:

4 30 1. a. The university shall submit an interim report to  
4 31 the general assembly each year on or before January 15,  
4 32 through January 15, 2013. The interim report shall do all of  
4 33 the following:

4 34 (1) Describe the university's progress in achieving the  
4 35 purposes of section 266.42, and detail its efforts in carrying  
5 1 out the livestock odor mitigation efforts described in this  
5 2 division.

5 3 (2) Evaluate applied and basic research projects being  
5 4 conducted or completed and provide estimates for their  
5 5 completion.

5 6 (3) Make any recommendation for improving, continuing, or  
5 7 expanding livestock odor mitigation efforts and for  
5 8 disseminating the results of those efforts to livestock  
5 9 producers.

5 10 b. The university shall submit a final report to the  
5 11 general assembly on or before six months after the completion  
5 12 of its research projects as provided in section 266.41. The  
5 13 final report shall include a summary of efforts, the  
5 14 university's findings and conclusions, and recommendations  
5 15 necessary to carry out the purposes of section 266.42.

5 16 2. Nothing in this section prevents the university from  
5 17 compiling information obtained, submitted, and maintained as  
5 18 the result of a livestock odor mitigation effort as provided  
5 19 in section 266.42 involving a specific livestock operation,  
5 20 and publishing that information as part of the report so long  
5 21 as the information cannot be used to identify a livestock  
5 22 producer or livestock operation without the consent of the  
5 23 livestock producer as provided in section 266.46.

5 24 3. Information obtained by the university in connection  
5 25 with a research project conducted on the site of a livestock  
5 26 operation as provided in this division shall be available for  
5 27 public examination as provided in section 22.2 so long as the  
5 28 information cannot be used to identify the livestock producer  
5 29 or livestock operation as provided in section 266.46.

5 30 Sec. 9. NEW SECTION. 266.48 LIVESTOCK ODOR MITIGATION  
5 31 EVALUATION EFFORT.

5 32 1. If funding is available, Iowa state university shall  
5 33 provide for a livestock odor mitigation evaluation effort as  
5 34 provided in section 266.42. The effort shall accomplish all  
5 35 the following objectives:

6 1 a. Ensure ease of its use and timeliness in producing  
6 2 results, including reports and the issuance of a livestock  
6 3 odor mitigation certificate as provided in this section.

6 4 b. Ensure a cost-effective process of evaluation.

6 5 c. Provide a level of evaluation that corresponds to the  
6 6 complexity of the proposed site of construction, including  
6 7 unique characteristics associated with that site.

6 8 2. The livestock odor mitigation evaluation effort shall  
6 9 provide for increasing levels of participation by a person who  
6 10 requests the evaluation in cooperation with the university as  
6 11 follows:

6 12 a. A level one evaluation that provides an opportunity for  
6 13 the person to complete a simple questionnaire which may be  
6 14 accessed by using the internet without assistance by  
6 15 university personnel.

6 16 b. A level two evaluation that provides an opportunity for  
6 17 the person to consult with a specialist designated by the  
6 18 university who shall assist in performing a comprehensive  
6 19 evaluation of the site of the proposed construction.

6 20 c. A level three evaluation which provides an opportunity  
6 21 for the person to participate in a community-based odor  
6 22 assessment model that uses predictive computer modeling to  
6 23 analyze the potential odor intensity, duration, and frequency  
6 24 for a neighbor from a livestock operation.

6 25 3. An evaluation may account for all factors impacting  
6 26 upon odor exposure as determined relevant by the university.  
6 27 The factors may vary based upon the type of evaluation  
6 28 performed. Factors which may be considered include but are  
6 29 not limited to all of the following:

6 30 a. Characteristics relating to the proposed site including  
6 31 but not limited to terrain, weather patterns, surrounding  
6 32 vegetative barriers, the proximity of neighbors, and  
6 33 contributing odor sources.

6 34 b. The type and size of the structure proposed to be  
6 35 constructed and its relationship to existing livestock  
7 1 operation structures.

7 2 4. At the completion of an evaluation, the university  
7 3 shall provide the participating person with a report including  
7 4 its findings and recommendations. A report may vary based  
7 5 upon the type of evaluation performed. The report resulting  
7 6 from a level one or level two evaluation may recommend that  
7 7 the participating person conduct a higher level evaluation. A  
7 8 report resulting from a level two or level three evaluation  
7 9 may recommend modifications to the design or orientation of  
7 10 the livestock operation structure proposed to be constructed,  
7 11 the adoption of odor mitigating practices, or the installation  
7 12 of odor mitigating technologies.

7 13 5. A participating person who has completed the level of  
7 14 evaluation as recommended by the university may request that  
7 15 the university issue the participating person a livestock odor  
7 16 mitigation evaluation certificate. The university shall issue  
7 17 a certificate to the participating person that verifies the  
7 18 person's completion of an evaluation that satisfies the  
7 19 requirements of this section. The university shall not issue  
7 20 a certificate to a participating person who has not completed  
7 21 the level of evaluation recommended by the university. The  
7 22 certificate shall identify the name of the participating  
7 23 person and the site where the construction is proposed.  
7 24 However, it shall not include any other information.

7 25 Sec. 10. Section 459.303, subsection 3, Code 2007, is  
7 26 amended by adding the following new paragraph:

7 27 NEW PARAGRAPH. d. A livestock odor mitigation evaluation  
7 28 certificate issued by Iowa state university as provided in  
7 29 section 266.48. The department shall not obtain, maintain, or  
7 30 consider the results of an evaluation. The applicant is not  
7 31 required to submit the certificate if any of the following  
7 32 applies:

7 33 (1) The confinement feeding operation is twice the minimum  
7 34 separation distance required from the nearest object or  
7 35 location from which a separation distance is required pursuant  
8 1 to section 459.202 on the date of the application, not  
8 2 including a public thoroughfare.

8 3 (2) The owner of each object or location which is less  
8 4 than twice the minimum separation distance required pursuant  
8 5 to section 459.202 from the confinement feeding operation on  
8 6 the date of the application, other than a public thoroughfare,  
8 7 executes a document consenting to the construction.

8 8 (3) The applicant submits a document swearing that Iowa  
8 9 state university has failed to furnish a certificate to the  
8 10 applicant within thirty days after the applicant requested the  
8 11 university to conduct a livestock odor mitigation evaluation  
8 12 as provided in section 266.48.

8 13 (4) The application for a permit to expand a confinement  
8 14 feeding operation, if the confinement feeding operation was  
8 15 first constructed before the effective date of this section of  
8 16 this Act.

8 17 (5) Iowa state university does not provide for a livestock  
8 18 odor mitigation evaluation effort as provided in section  
8 19 266.48, for any reason, including because funding is not  
8 20 available.

8 21 Sec. 11. APPLICABILITY. Section 459.303, subsection 3, as  
8 22 amended by this Act, shall not apply to require an applicant  
8 23 for a permit to construct a confinement feeding operation  
8 24 structure to submit a livestock odor mitigation evaluation  
8 25 certificate to the department of natural resources, if the  
8 26 application was submitted prior to the effective date of the  
8 27 section of this Act amending section 459.303, subsection 3.

8 28 Sec. 12. CONTINGENT IMPLEMENTATION. Subject to the  
8 29 effective date provisions of this Act, this Act shall be  
8 30 implemented by Iowa state university and the department of  
8 31 natural resources only when Iowa state university first  
8 32 receives moneys appropriated by the general assembly during a  
8 33 fiscal year as necessary to carry out all of the provisions of  
8 34 this Act.

8 35 Sec. 13. EFFECTIVE DATE. The section of this Act amending  
9 1 section 459.303, subsection 3, takes effect January 1, 2009.

9 2 HF 2688  
9 3 da/jg/25